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CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail, with sufficient postage, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on the below date:

Date: June 18, 2004

Name: Vincent J. Gnoffo

Signature:

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Appln. of: G. Peyman et al.

Appln. No.: 09/832,269

Filed: April 10, 2001

For: RETINAL TREATMENT METHOD

Attorney Docket No: 3614-174

Examiner: Zohreh A. Fey

Art Unit: 1614

Mail Stop Issue Fee
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL

Sir:

Attached is/are:

- ☒ Checks in the amount of \$200.00 and \$15.00; Transmittal Letter (in duplicate); Issue Fee Transmittal and Fee; Request for Reconsideration of the Patent Term Adjustment Under 37 C.F.R. § 1.705(d)
- ☒ Return Receipt Postcard

Fee calculation:

- ☐ No additional fee is required.
- ☐ Small Entity.
- ☐ An extension fee in an amount of \$_____ for a _____-month extension of time under 37 C.F.R. § 1.136(a).
- ☐ A petition or processing fee in an amount of \$_____ under 37 C.F.R. § 1.17(_____).
- ☐ An additional filing fee has been calculated as shown below:

					Small Entity			Not a Small Entity	
	Claims Remaining After Amendment		Highest No. Previously Paid For	Present Extra	Rate	Add'l Fee	or	Rate	Add'l Fee
Total		Minus			x \$9=			x \$18=	
Indep.		Minus			x 43=			x \$86=	
First Presentation of Multiple Dep. Claim					+\$145=			+\$290=	
					Total	\$		Total	\$

Fee payment:

- ☒ Checks in the amount of \$200.00 to cover the Request for Reconsideration fee and \$15.00 to cover the Issue fee are enclosed.
- ☐ Please charge Deposit Account No. 23-1925 in the amount of \$_____. A copy of this Transmittal is enclosed for this purpose.
- ☐ Payment by credit card in the amount of \$_____ (Form PTO-2038 is attached).
- ☒ The Director is hereby authorized to charge payment of any additional filing fees required under 37 CFR § 1.16 and any patent application processing fees under 37 CFR § 1.17 associated with this paper (including any extension fee required to ensure that this paper is timely filed), or to credit any overpayment, to Deposit Account No. 23-1925.

June 18, 2004

Date

Respectfully submitted,

Vincent J. Gnoffo (Reg. No. 44,714)



#22

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Date of Deposit
Vincent J. Gnoffo
Vincent J. Gnoffo

CASE NO. 3614-174

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re: patent application of)	
)	
Peyman, et al)	Examiner: Zohreh A. Fey
)	
Retinal Treatment Method)	Group Art Unit: 1614
)	
Serial No.: 09/832,269)	
)	
Filed: April 10, 2001)	

**REQUEST FOR RECONSIDERATION OF THE
PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)**

Mail Stop Patent Ext
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Repln. Ref: 03/29/2005 AKELLEY 0012443200
DAH:231925 Name/Number:09832269
FC: 9204

Dear Sir: \$200.00 CR

A corrected notice of allowance was issued in this case on March 18, 2004 indicating that the issue fee is due on June 18, 2004. The issue fee is being submitted in this application simultaneously with this request for reconsideration of the patent term adjustment. The Patent Application Information Retrieval system shows a current calculation of the patent term adjustment under 35 U.S. C. § 154(b) of 92 days. For the reasons stated herein, reconsideration of this patent term adjustment is respectfully requested. A check in the amount of \$200 for the petition fee under 37 C.F.R. § 1.18(e) is

Adjustment date: 03/29/2005 AKELLEY
06/23/2004 RHEBRAH1 00000050 09832269
01 FC:1455 -200.00 DP

06/23/2004 RHEBRAH1 00000050 09832269 200.00 DP
01 FC:1455

attached. Please charge any additional fee required or credit for any excess fee paid to Deposit Account No. 23-1925. A duplicate copy of this Petition is attached.

The patent term adjustment for this application is calculated as shown below. Dates are specified based on the Patent Application Information Retrieval (PAIR) system Patent Term Adjustment History, attached as Exhibit A. The present application is not subject to a terminal disclaimer.

Period of adjustment under 37 C.F.R. § 1.703(a)

The period of adjustment under 37 C.F.R. § 1.703(a)(1) is the number of days in the period beginning on the day ("the 14 month date") after that date that is fourteen months after the date on which the application was filed under 35 U.S.C. § 111(a) and ending on the date of mailing or either an action under 35 U.S.C. § 132 or a notice of allowance under 35 U.S.C. § 151, whichever comes first.

The present application was filed on April 10, 2001. The 14 month date specified in 37 C.F.R. § 1.703(a) is June 10, 2002. The first PTO action was an Office action mailed September 10, 2002. The difference between the 14 month date and the date of mailing of the requirement for restriction is 92 days.

The period of adjustment under 37 C.F.R. § 1.703(a)(2) is the number of days in the period beginning on the day ("the 4 month date") after that date that is four months after the date on which a reply was filed under 35 U.S.C. § 111 and ending on the date of mailing or either an action under 35 U.S.C. § 132 or a notice of allowance under 35 U.S.C. § 151, whichever comes first.

In the present application, a response to the Office action was filed on November 8, 2002. The 4 month date is March 8, 2003. A supplemental notice of allowance was mailed May 7, 2003, to correct an earlier notice of allowance (mailed March 9, 2003). The difference between the 4 month date and the date of mailing of the supplemental notice of allowance is 60 days.

Reduction in Period of Adjustment under 37 C.F.R. § 1.704

Under 37 C.F.R. § 1.704(c)(10), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application, which will result in the following reduction of the period of adjustment set forth

in 1.703 to the extent that the periods are not overlapping, include submission of an amendment under 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in 1.703 shall be reduced by the lesser of:

- (i) the number of days, if any, beginning on the date the amendment under 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under 1.312 or such other paper; or
- (ii) four months.

In the present patent, the supplemental notice of allowance was mailed May 7, 2003.

A petition to withdraw the application from issue was entered in the PTO on July 7, 2003. The petition was granted on July 7, 2003, and after filing a preliminary amendment on July 21, 2003 and a supplemental information disclosure statement on August 8, 2003, a notice of allowance was mailed on September 11, 2003, so the reduction in the period of adjustment under 37 C.F.R. § 1.704(c)(10) is 66 days.

Under 37 C.F.R. § 1.704(b), the period of adjustment shall be reduced by the number of days, if any, beginning on the day after the date (the 3 month date) that is three months after the date of mailing or transmission of an Office communication notifying the applicant of a rejection, objection, etc., and ending on the date the reply was filed.

In the present application, the notice of allowance was mailed on September 11, 2003. The 3 month date was December 11, 2003. The issue fee was received by the PTO on December 15, 2003. The difference between the 3 month date and the issue fee date was 4 days.

The sub-total net delay calculated on the mailing of the notice of allowance in the present application is thus $92 + 60 - 66 - 4 = 82$ days.

Applicant therefore requests a re-computation of the period of adjustment under 37 C.F.R. § 1.703 upon identification of the date of issue of the patent in the present application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Vincent J. Gnoffo", written over a horizontal line.

Vincent J. Gnoffo
Registration No. 44,714
Attorney for Applicant

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